

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JOSEPH ZLOZA,

Plaintiff,

v.

OPINION and ORDER

CHANTIX and  
DOCTOR,

23-cv-190-wmc<sup>1</sup>

Defendants.

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Pro se plaintiff Joseph Zloza alleges that he suffered side effects from the drug Chantix. Because he proceeds in forma pauperis, I must screen the complaint and dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. § 1915. In doing so, I must accept the allegations as true and construe the complaint generously, holding it to a less stringent standard than formal pleadings drafted by lawyers. *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir. 2011). With that standard in mind, I conclude that Zloza's complaint must be dismissed, but I will allow him the opportunity to file an amended complaint that fixes the problems I describe in this order.

ANALYSIS

Zloza's allegations are sparse, but I understand him to be contending that he took the drug Chantix in 2013 and it "made [him] into a monster" and that the police and the FBI have been "trying to work [him] up" since. Dkt. 1 at 2.

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<sup>1</sup> I am exercising jurisdiction over this case for the purpose of screening only.

There are two problems with Zloza's complaint that require its dismissal. First, he indicates that he is suing Chantix and an unidentified doctor under state law, but a federal court's authority to hear state-law cases is limited. Without a related federal claim, I can exercise jurisdiction over state-law claims only when the plaintiff and each defendant are citizens of different states, and the amount of money at stake is over \$75,000. 28 U.S.C. § 1332. Zloza seeks damages in excess of \$75,000 and says that he is a Wisconsin citizen, but there are no allegations concerning the citizenship of either defendant, so I cannot determine whether I can exercise jurisdiction over this case.

Second, Zloza cannot proceed against either defendant regardless of citizenship. He names "Doctor" in the caption, but there are no allegations identifying this defendant or explaining what this defendant did to violate Zloza's rights. This defendant cannot be served with the complaint and would have no notice of what Zloza believes he or she did wrong, as required by Federal Rule of Civil Procedure 8. As for Chantix, Zloza must name its manufacturer to proceed on a products liability claim for injuries caused by this drug. *See, e.g., Cole v. Janssen Pharmaceuticals, Inc.*, No. 15-CV-57, 2017 WL 6372777, at \*1 (E.D. Wis. Dec. 12, 2017) (pro se plaintiff sued manufacturer and distributor of a drug for its allegedly adverse side effects). And Zloza will have to provide more factual details explaining how Chantix affected him before he could proceed against the manufacturer for his injuries.

I will dismiss Zloza's complaint, but it may still be possible for him to state a claim. So I will allow him an opportunity to file an amended complaint that addresses the problems I have described in this order. In drafting his amended complaint, Zloza should again use the court's nonprisoner complaint form, which I will send him with this order. He should also name every individual and entity he wants to sue in the caption and explain who they are and how

he believes they each violated his rights. The amended complaint will completely replace the original complaint. If Zloza does not file an amended complaint by the deadline indicated below, I will dismiss this case.

ORDER

IT IS ORDERED that:

1. Plaintiff's complaint, Dkt. 1, is DISMISSED for failure to state a claim upon which relief can be granted.
2. Plaintiff may have until **May 4, 2023**, to file an amended complaint that corrects the deficiencies described in this order.
3. Plaintiff must file his amended complaint on the court's nonprisoner complaint form, which the court will send him with this order. Plaintiff must fill out the form completely.
4. The amended complaint will act as a complete substitute for the complaint. The case will proceed on only the allegations made and claims presented in the amended complaint.
5. If plaintiff fails to respond by that deadline, I will dismiss this lawsuit.
6. It is plaintiff's obligation to inform the court of any new address. If he fails to do this and defendants or the court are unable to locate him, his claims may be dismissed for his failure to prosecute them.

Entered April 13, 2023.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge